IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE M.H.S. ANSARI**

**and**
**THE HON'BLE MR JUSTICE T.CH.SURYA RAO**

**WRIT PETITION NO.3927 of 2005**

Between:

M/s. Hotel Kamal (P) Ltd., 9-1-167/168, Sarojini Devi Road, Secunderabad-500003. rep. by its Finance Manager, V.K. Batra, S/o. R.D.Batra.

**..... PETITIONER**

AND

1 The Commercial Tax officer, Market Street Circle, Secunderabad.
2 The Deputy Commissioner of Commercial Taxes (CT) Secunderabad

Division, Hyderabad.
3 The Additional Commissioner of CT(Legal), O/o. The Commissioner of

Commercial Taxes, Hyderabad,
Andhra Pradesh.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of writ of Mandamus declaring the impugned order of the third respondent in CCT's Ref.No.LIII(1)/130/2005, dated 16-02-2005 dismissing the stay petition filed by the petitioner firm for the assessment year 1998-99 as illegal, arbitrary, improper, unjust

and without application of mind as the double collection of taxes and double imposition of taxes on the very same transactions is illegal and unconstitutional and as the tax that is collected under Section 5C which is a separate charging section does not fall within the purview of the section 5A of the APGST Act and levy of turnover tax on the taxable turnover to be taxed under section 5C is very much illegal and unconstitutional and consequently directing the first respondent not to take coercive steps for recovery of the tax is disputed for the above mentioned assessment year pending disposal of the appeal on the file of the sales Tax Appellate Tribunal.

**Counsel for the Petitioner: MR.M.V.J.K.KUMAR**

**Counsel for the Respondents: SPECIAL STANDING COUNSEL FOR COMMERCIAL TAX**

**The Court, at the admission stage, made the following:**

-

-

-

-

-

-

-

-

-

-

**ORDER:**

(per the Hon'ble Sri Justice T.Ch. Surya Rao)

Having heard the learned counsel for the respective parties, we are inclined to dispose of the instant writ petition with certain appropriate directions.

Petitioner seeks to question the order dated 16.02.2005 passed by the learned Additional Commissioner of CT (Legal), Hyderabad, whereby the application filed by the petitioner seeking stay, pending disposal of the appeal before the Sales Tax Appellate Tribunal, was rejected.

The tax involved in this case is in regard to levy of turnover tax for the assessment year 1998-1999.

As discussed herein above, the instant writ petition is being disposed of with a direction that if the petitioner deposits 50% of the disputed tax, giving credit to the amounts, if any, already paid in respect of the assessment year 1998-1999 in question, the appeal that is pending before the Appellate Tribunal shall be disposed of on its own merits without insisting for payment of the balance of the disputed tax for the said assessment year pertaining to the appeal.

The Writ Petition stands disposed of with the said direction. No order as to costs.

_____

**M.H.S. ANSARI, J.**

_____

**T.CH. SURYA RAO, J.**

Date: 02.03.2005

Note:

Issue CC on priority basis

(B/O)

Nsr

To

1 The Commercial Tax officer, Market Street Circle, Secunderabad.
2 The Deputy Commissioner of Commercial Taxes (CT) Secunderabad

Division, Hyderabad.

3 The Additional Commissioner of CT(Legal), O/o. The Commissioner of

Commercial Taxes, Hyderabad,
Andhra Pradesh.

4 Two CCs to Special Standing Counsel for Commercial Tax, High Court

of AP, Hyderabad (OUT)

1) 2 CD copies

*Form-NIC-OGS/WP{**JA**}*